

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 7800 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

=====

1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

Whether this case involves a substantial question
of law as to the interpretation of the

4 constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
?

=====

MUKESH JAMNADAS SHAH - Petitioner(s)
Versus
DEPUTY MAMLATDAR(REVENUE) & 1 - Respondent(s)

=====

Appearance :

MR MJ THAKORE for Petitioner(s) : 1,
MR DIPEN DESAI AGP for Respondents - State

=====

CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 23/06/2006

ORAL JUDGMENT

1.By way of this petition under Article 226 of
the Constitution of India, the petitioner has
prayed for appropriate writ, order and/or

directions prohibiting the Collector from entertaining or dealing with or disposing of or passing any order reversing the order of the Deputy Collector on the Revision preferred by the Deputy Mamlatdar for revising the order dtd.15/1/1990 in Case No.RTS/Revision/116/89.

2.It appears from the record that there was dispute with regard to entry and the Circle Officer by order dtd.27/10/1986 certified Entry No.2728 with respect to the land in question. It also further appears from the record that the said entry was taken under suo-motu revision by the Deputy Collector being RTS/Revision Application No.166 of 1989 and the Deputy Collector by his order dtd.15/1/1990 confirmed the said entry and withdrew the notice. It appears that still one Deputy Mamlatdar preferred Revision before the Collector, Vadodara under Rule 108 (6) of the Bombay Land Revenue Rules (hereinafter referred

to as "the Rules") and therefore, at that stage, the petitioner has preferred the present petition.

3.It is the contention on behalf of the petitioner that the Deputy Mamlatdar has no jurisdiction to prefer Revision under Rule 108(6) of the Rules, as apart from the fact that he cannot said to be aggrieved person, he cannot prefer Revision against the order passed by his superior. It is also further submitted that in fact, the Circle Officer who has certified the entry was from the very office i.e. the office of the Mamlatdar and still the Deputy Mamlatdar for some oblique reasons has preferred the Revision before the Collector which itself without jurisdiction and not maintainable.

4.Mr.Dipen Desai, learned AGP is not in a position to satisfy this Court how the Deputy

Mamlatdar could have preferred a Revision against the order passed by the Deputy Collector certifying entry and under what authority and/or jurisdiction, the Deputy Mamlatdar has preferred the Revision.

5. In view of the above, it appears that the Deputy Mamlatdar who had preferred the Revision before the Collector challenging the order passed by the Deputy Collector itself was without jurisdiction and without any authority under the Rules and therefore, the proceedings before the Collector at the instance of the Deputy Mamlatdar is hereby quashed and set aside. Rule is made absolute to the aforesaid extent. However, there will be no order as to costs.

(M.R.SHAH, J.)

rafik